

301 CMR 20.00: COASTAL ZONE MANAGEMENT PROGRAM

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20.01: Authorities

- (1) Federal Authority: 301 CMR 20.00 is promulgated pursuant to the federal Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 *et seq.*) and 15 CFR 923.00, as amended.
- (2) State Authority: 301 CMR 20.00 is promulgated by the Secretary of the Massachusetts Executive Office of Environmental Affairs (EOEA) pursuant to the authority granted under M.G.L. c.21A §§2 and 4A.

20.02: Purpose

- (1) The purpose of the Massachusetts Coastal Zone Management (MCZM) Program is to secure for the inhabitants of the Commonwealth the objectives and benefits of the federal Coastal Zone Management Act 16 U.S.C. 1451 *et seq.*
- (2) The purpose of these regulations is to:
 - (a) establish the Massachusetts Coastal Zone Management Office within the Massachusetts Executive Office of Environmental Affairs (EOEA);
 - (b) establish MCZM Policies found at 301 CMR 21.98: Policy Appendix as declarations of the Massachusetts coastal environmental policy for the Executive Office of Environmental Affairs;
 - (c) ensure that the conduct of other activities within the EOEA office are consistent with MCZM Policies;
 - (d) ensure that there is coordination and consistency within the Executive Office of Environmental Affairs regarding the administration of the resources of the coastal zone.
- (3) The approved Massachusetts MCZM Program relies solely on existing statutory authority. None of the policies, memoranda of understanding and regulations is equivalent to an expansion of governmental authority beyond existing law. Any part of the Program or the regulations which is found to be an expansion of authority beyond existing law is null and void.

20.03: Definitions

Appropriate EOEA Agency means an EOEA agency that has jurisdiction in the coastal zone, is identified in the MCZM Program, or is otherwise responsible for carrying out the policies of the MCZM Program.

EOEA means the Massachusetts Executive Office of Environmental Affairs.

MCZM Policy means any of the policies stated in 301 CMR 21.98, as amended.

MCZM Program means the Massachusetts Coastal Zone Management program comprised of the combination of the following documents: the MCZM enforceable program policies, as amended; the Final Environmental Impact Statement and Report (FEIS and FEIR, respectively), as amended; Volume I and II (the Coastal Atlas) of the draft MCZM Program (DEIS), as amended; and regulations, designations (e.g., Areas of Critical Environmental Concern), memoranda of understanding and other implementing actions that the MCZM Office submits to National Oceanic and Atmospheric Administration, United States Department of Commerce for approval as amendments to the MCZM Program.

Secretary means the Secretary of the Massachusetts Executive Office of Environmental Affairs or his or her designee.

20.04 Establishment of the Coastal Zone Management Office

In accordance with M.G.L. c. 21A, §4A, the MCZM Office is established within EOEA and will be administered by a Director who will be appointed and may be removed by the Secretary. The Secretary will direct the Office and the Director in actions in furtherance of the MCZM Program and Policies. MCZM will advise the Secretary on state coastal policy.

20.05 The Coastal Resources Advisory Board (CRAB)

The Governor has established the Coastal Resources Advisory Board (CRAB) pursuant to M.G.L. 21A, §4A. The membership includes 16 citizen representatives of statewide educational, business, and public interest organizations, and government agencies with a role in the coastal program, who are appointed by the Governor and the Secretary. The purpose of CRAB is to generally advise the Governor and the Secretary on issues related to the statewide implementation of the MCZM Program and to insure that the MCZM Office maintains a close connection to local communities and the citizen it serves.

20.06 MCZM Policies

- (1) State Coastal Policy: M.G.L. c. 21A, §4A establishes the policies of the Massachusetts Coastal Zone Management Program, found at 301 CMR 21.98: Policy Appendix, as state coastal policy.
- (2) Federal Consistency Review: The federal Coastal Zone Management Act and federal regulations at 15 CFR 930.00 authorize states with approved coastal zone management programs to review federal activities in or affecting the state's coastal zone for consistency with its enforceable program policies. These policies and their authorities are found at 301 CMR 21.98: Policy Appendix. They are enforceable in that they are based on existing state statute and regulation. Regulations implementing MCZM's federal consistency review are found at 301 CMR 21.00: Federal Consistency Review Procedures.

20.07 Implementation of the MCZM Program Within EOEA

- (1) Role of EOEA Agencies. The appropriate EOEA agencies implement MCZM's policies through their regulations, administrative procedures, standards and criteria.
 - (a) Any appropriate EOEA agency may enter in a Memorandum of Understanding with the Secretary and any appropriate EOEA agency in order to jointly implement the MCZM Program.
 - (b) All appropriate EOEA agencies will review and, if necessary, promulgate amendments to

regulations, administrative procedures, standards and criteria incorporating MCZM Policies and the MCZM Program to the extent permissible at law.

(c) Appropriate EOEAs will ensure achievement of their responsibilities consistently with the MCZM Policies and Program, under this regulation.

(2) Conflicts. Whenever an administrative or jurisdictional conflict exists between two or more EOEAs in the administration of the MCZM Program or Policies, the Secretary will resolve such conflicts.

20.08: Consultation Mechanisms for Local, Regional and Inter-state Agencies and Other State Agencies

The MCZM program will establish an effective mechanism for continuing consultation and coordination between the MCZM Office and local governments, inter-state agencies, regional agencies and areawide agencies within the coastal zone to assure the full participation of such local governments and agencies.

20.09 Amendments

(1) Amendments to the MCZM Program. The MCZM Program may be amended in accordance with 15 CFR 923.00, as amended.

(2) Amendments to MCZM's Regulations. These regulations may be amended in accordance with M.G.L. c. 30A, as amended.

20.10 Effective Date and Severability

(1) Effective Date. 301 CMR 20.00, as revised, will take effect upon promulgation.

(2) Severability. If any provision of any part of 301 CMR 20.00 or the application thereof, is held to be invalid, such invalidity will not affect any other provision.

REGULATORY AUTHORITY

301 CMR 20.00; M.G.L. c. 21A §§ 2, 4A; 16 U.S.C. § 1451 *et seq.*; 15 CFR 923